



Appendix A(1)

March 2, 2000

Mr. Kevin Saville  
US West, Inc.  
200 South 5<sup>th</sup> Street  
Room 395  
Minneapolis, MN 55402

Re: Stipulation  
Docket No. P3009, 3052, 5096, 421, 3017/PA-11-1192

Dear Mr. Saville:

Enclosed please find a copy of the fully executed Stipulation Between ATI and US We which is confidential and trade secret.

Sincerely,

A handwritten signature in black ink, appearing to read "Dennis D. Ahlers".

Dennis D. Ahlers  
Senior Attorney

Enclosure

• 730 Second Avenue South • Suite 1200 • Minneapolis, MN 55402 • Phone (612) 375-4400 • Fax (612) 375-4411

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CONFIDENTIAL/TRADE SECRET

STIPULATION BETWEEN ATI AND US WEST

February 28, 2000

WHEREAS, US WEST, Inc., ("USWC") and Advanced Telecommunications, Inc., d/b/a Cady Communications, Inc., Cady Telemangement, Inc., American Telephone Technology, Inc., Electro-Tel, Inc. and Intellicom, Inc. (collectively "ATI") have reached a settlement agreement that resolves numerous disputes between ATI and USWC (collectively "Parties"), including the proposed merger currently being considered by the Minnesota Public Utilities Commission ("MPUC") in MPUC Docket No. P-5009, 5052, 5096, 421, 3017/PA-99-1192; and

WHEREAS, the settlement agreement between the Parties includes both regulatory and non-regulatory components; and

WHEREAS, as a result of this settlement agreement, ATI has agreed to drop its opposition to the proposed merger, as modified by this agreement; and

WHEREAS, USWC and ATI have memorialized the regulatory components of our settlement agreement in a Stipulation and Agreement ("Agreement") to be filed February 28, 2000 with the MPUC; and

WHEREAS, the Parties wish to set forth the additional terms of their agreement in this separate document; and

WHEREAS, the Parties consider these additional provisions to be of critical importance in reaching an overall resolution of this matter; and

WHEREAS, ATI has made clear that without these additional provisions, it would have continued to oppose the proposed merger and may also have pursued other legal recourse;

NOW, THEREFORE IT IS AGREED THAT:

Confidentiality

1. The terms of this agreement are confidential, contain trade secret information and shall not be disclosed unless pursuant to a lawful Order compelling such disclosure. In such event that production is compelled, neither Party shall disclose the terms of this agreement without first notifying the other Party.

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Interconnection Agreement Implementation and Enforcement

2. In the accompanying Agreement filed with the MPUC on February 28, 2000, the Parties agreed to implement certain Direct Measures of Quality (DMQs) under the Parties' Minnesota Interconnection agreement. The Parties agree that the implementation of these DMQs shall become effective upon execution of this agreement. The DMQ provisions in the Minnesota Interconnection Agreement include, among other things, Overall Performance Index measurements and credits. With respect to the Overall Performance Index credits for October and November, 1999, U S WEST agrees to credit ATI \$89,290 by March 15, 2000.

3. In USWC states other than Minnesota in which ATI presently operates or in which ATI shall establish operations, the Parties agree to assess USWC wholesale service quality using the same three performance measurements identified in the accompanying Agreement. In these states, the measurements shall be called "Service Performance Measurements" (SPMs). The Service Performance Measurements shall be based upon the Overall Performance Index DMQs implemented pursuant to the interconnection agreement in Minnesota except that the minimum standards will be mutually negotiated by the parties. These SPMs may from time to time be modified under this agreement unless the Parties agree otherwise. Further, since the Parties intend these SPMs to be used for measurement purposes only, the Parties agree that this agreement provides no basis for a claim against US WEST to issue credits or pay penalties associated with the SPMs.

4. As soon as reasonably practicable, the Parties shall negotiate mutually acceptable minimum standards for assessing USWC's performance under each SPM in each state other than Minnesota. USWC shall report its performance under these standards to ATI on a monthly basis. The Parties agree that the SPMs for other states shall apply to customer migration from resale to unbundled loops.

5. The Parties understand that the standard for each SPM may differ from state to state. If USWC's performance fails to meet or exceed the standard for any SPM in any state for a consecutive three month period, the signatories to this agreement, or their successor officers, shall meet to determine how to improve performance. The Parties further agree that the standards initially established are performance baselines. The Parties agree that the standards should be evaluated from time to time and that they will in good faith negotiate modifications as appropriate.

6. ATI does not waive its right to any performance or per occurrence measurements or credits that may be established for USWC in any state under state or federal law, rule, or regulation or as may be available to ATI from adopting a new or amending its existing Interconnection Agreements. US WEST likewise reserves its right to challenge any performance or per occurrence measurements or credits that may be

established for USWC in any state under state or federal law, rule, or regulation or as may be available to Cady from adopting a new or amending its existing Interconnection Agreements.

Reciprocal Compensation

7. Cady has asserted that USWC must pay reciprocal compensation for internet related terminating traffic under its Interconnection Agreements and under applicable state and federal law. USWC has asserted that it has no legal obligation to pay reciprocal compensation for such traffic. Notwithstanding these differences and without waiving their positions, the parties agree for settlement purposes that reciprocal compensation for terminating internet traffic shall be paid at the most favorable rates and terms contained in an agreement executed to date by USWC. The parties will develop a full implementation plan on these reciprocal compensation issues by March 31, 2000. Further, the parties agree that for purposes of applying these rates and terms and conditions they will work cooperatively to develop a means by which ISP traffic will be broken out in the least costly manner practicable.

Resale Agreement Issues

8. The Parties have had a long dispute over various wholesale discount and resale agreement issues. USWC continues to disagree with ATI's position on these issues. However, USWC agrees to pay ATI \$380,000 to resolve outstanding disputes between the Parties relating to the wholesale discount and the definition of the circumstances in which the discount on twenty or more stations/lines at a single location, as described in ATI's February 22, 2000 letter. This credit shall be made on or before March 15, 2000 and will resolve all past and future claims associated with: (1) the implementation of the Resale discount; and (2) the interpretation of a "location" for the application of a discount for Centron systems consisting of twenty or more stations/lines at a single location.

9. USWC also agrees to credit ATI with \$15,800 through its normal business process to correct past errors in applying the appropriate discounts for flat rated trunking and to apply the flat rate trunking discount appropriately on a going forward basis. In addition, USWC has as of February 15, 2000, credited ATI for \$175,918 relating to situations where both Parties agree that ATI has twenty or more lines at a location, but the discount had not yet been applied. ATI will verify that the credits have been appropriately made. USWC will make every effort to accurately apply the twenty or more line discount on a going forward basis and agrees to provide appropriate credits to ATI in the event of errors in this process.

10. With respect to termination liability assessments (TLA) and while the Minnesota Commission continues to have an open docket on this issue, USWC agrees to continue to suspend such assessments in Minnesota when a USWC customer converts to an ATI customer on a resale basis and to credit ATI with any such TLA payments ATI

has made in Minnesota. USWC understands that the outstanding TLA charges that remain to be suspended is approximately \$16,000. ATI understands that USWC will continue to levy TLAs in other states. ATI reserves its right to pursue all avenues available to protest such assessments in any forum. USWC reserves its right to seek to have TLAs reinstated in Minnesota, and to assess such TLAs going forward, if permitted under law. Both Parties reserve all rights, but agree to negotiate in good faith, with respect to any potential reexecutive assessments, should TLAs be permitted under Minnesota law.

Dedicated Provisioning Team

11. USWC agrees to dedicate Aimee Croatt as a Coach and locate her at ATI's offices at 511 11<sup>th</sup> Avenue South in Minneapolis for a period of at least six months. If Ms. Croatt is not available for assignment, USWC will provide another Coach who is knowledgeable of and experienced in working with all the different groups and functions within USWC related to provisioning. ATI must approve the assignment of any Coach other than Ms. Croatt. USWC will also utilize a service delivery coordinator (SDC) to assist the Coach. The parties recognize that the Coach and the SDC will need to complete training before the requirements in this paragraph 11 and paragraph 12 can be fully implemented. All properly input orders that, for one reason or another, are not flowing through the accepted process would be the responsibility of the Coach or SDC. The Coach would have access to all USWC's systems and would work within the USWC organization and using USWC's processes to resolve issues as quickly as possible. The Coach would track the reasons for problem orders to aid in defining and refining current processes for both USWC and ATI. ATI will provide any facilities requested by USWC for the Coach. ATI has also indicated that it will work cooperatively with USWC to identify and pay the incremental and extraordinary costs associated with the dedicated provisioning team.

12. At the appropriate time, USWC agrees to dedicate a provisioning team to work with the Coach and handle all interaction with ATI on order processing. After spending two months on site with the ATI provisioning team, the Coach and/or the SDC should have the criteria and information available to make a decision as to how many U.S. West provisioners will be needed to oversee the ATI orders. The provisioning team will be physically located at the 511 11<sup>th</sup> Avenue South location. The parties agree to evaluate the dedicating provisioning team requirement in 12 months after the effective date of this agreement.

Migration of ATI customers from resale to facilities based service

13. In the accompanying agreement, USWC and ATI agreed to continue to work together to develop a specific and detailed migration plan. The Parties agree that the DMOQs under the Minnesota interconnection agreement and accompanying agreement will apply to customer migration from resale to UNEs. The Parties here also agree that the SPMs for other states will apply to migration of customers in those states.

Dispute Resolution

14. In the event of future disputes between the Parties, in addition to the dispute resolution mechanism provided under the Interconnection Agreement, the Parties agree to use the following alternative dispute resolution procedures as their preferred remedy; provided, however, that in the event the negotiations referenced below do not resolve the dispute within thirty (30) Business Days of the initial written request, unless the Parties mutually agree to a different time frame. Either Party may elect, before filing a claim or response in arbitration (as the case may be) to submit an otherwise arbitrable dispute to the Commission, the FCC, or a court of appropriate jurisdiction.

Negotiations. At the written request of a Party, each Party will appoint a knowledgeable, responsible representative to meet and negotiate in good faith to resolve any dispute arising between the Parties. The Parties intend that these negotiations be conducted by non-lawyer, business representatives. The location, format, frequency, duration, and conclusion of these discussions shall be left to the discretion of the representatives. Upon agreement, the representatives may utilize other alternative dispute resolution procedures such as mediation to assist in the negotiations. Discussions and correspondence among the representatives for purposes of these negotiations shall be treated as confidential information developed for purposes of settlement, exempt from discovery, and shall not be admissible in the arbitration described below or in any lawsuit without the concurrence of all Parties. Documents identified in or provided with such communications, which are not prepared for purposes of the negotiations, are not so exempted and may, if otherwise discoverable, be discovered or otherwise admissible, be admitted in evidence, in the arbitration or lawsuit.

Arbitration. Unless either Party chooses to submit the dispute to the Commission, FCC or court of competent jurisdiction, if the negotiations do not resolve the dispute within the applicable time frame, the dispute, if allowed under applicable law, shall be submitted to binding arbitration by a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association, except that the Parties may select an arbitrator outside American Arbitration Association rules upon mutual agreement. A Party may demand such arbitration in accordance with the procedures set out in those rules. Discovery shall be controlled by the arbitrator and shall be permitted to the extent set out in this section. Each Party may submit in writing to a Party, and that Party shall so respond to, a maximum of any combination of thirty-five (35) (none of which may have subparts) of the following: interrogatories, demands to produce documents, or requests for admission. Each Party is also entitled to take the oral deposition of one individual of another Party. Additional discovery may be permitted upon mutual agreement of the Parties. The arbitration hearing shall be commenced within thirty (30) Business Days of the demand for arbitration. The arbitrator shall control the scheduling so as to process the matter expeditiously.

The Parties may submit written briefs. The arbitrator shall rule on the dispute by issuing a written opinion within thirty (30) Business Days after close of hearings. The times specified in this section may be extended upon mutual agreement of the Parties or by the arbitrator upon a showing of good cause. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction.

Expedited Arbitration Procedures. If the issue to be resolved through the negotiations referenced above directly and materially affects service to either Party's end user customers, including, without limitation, any dispute that relates to the timeliness of USWC's processing or provisioning of a request or order for collocation, then the period of resolution of the dispute through negotiations before the dispute is to be submitted to binding arbitration or other legal recourse shall be seven (7) Business Days. Once such a service affecting dispute is submitted to arbitration, the arbitration shall be conducted pursuant to the expedited procedures rules of the Commercial Arbitration Rules of the American Arbitration Association (i.e., Rules 53 through 57).

Costs. Each Party shall bear its own costs of these procedures, including the costs of responding to reasonable discovery. If the arbitrator finds that a Party's discovery requests require the responding Party to undertake unreasonable or unnecessarily burdensome efforts or expense, the Party seeking discovery shall reimburse the responding Party the costs of production of documents in response to such requests (including search time and reproduction costs). The Parties shall equally split the fees of the arbitration and the arbitrator.

Severability

15. The Parties agree that in the event that any provision of this agreement is found to be unlawful or otherwise prohibited by a regulatory agency or court of competent jurisdiction, the remaining provisions of this agreement shall remain in full force and effect.

Execution and Effective Date

16. This Stipulation resolves numerous issues between Cady and USWC, including all issues among the parties in MPUC Docket Number P-3009, 3052, 5096, 421, 3017/PA-99-1192, related to approval and consummation of the merger. The Parties agree to expressly represent to the Minnesota Public Utilities Commission that they recommend acceptance of the accompanying Stipulation and Agreement without reservation, and agree not to engage in any advocacy to the contrary or in support of any additional conditions in the USWC/Qwest merger proceeding.

17. It is expressly agreed by and between the Parties that nothing contained in this Stipulation, shall be deemed an admission or declaration against the interests of any of the Parties, or shall in any way prejudice the rights or positions of any of the Parties in

any other administrative or judicial proceeding of any sort. The Parties also agree that any documents, materials, or statements made in furtherance of this agreement, shall not be admissible as evidence in any regulatory or judicial proceeding, and will not be discussed or described in any way with any person or persons not currently employed by the parties, except to enforce this agreement.

18. This Stipulation applies to each of the parties and shall be binding on the successors and assigns of the parties.

19. The provisions of this Stipulation shall take effect upon execution and will terminate on March 17, 2002.

20. This Stipulation may be executed in identical counterparts with the same effect as if a single copy were executed.

US WEST COMMUNICATIONS, INC.

Dated: February 14, 2000

By: Dee Kell

Title: President - Western

ADVANCED TELECOMMUNICATIONS, INC.

Dated: February 25, 2000

By: Beth S. Ferguson

Title: Chief Financial Officer

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